

## **Memorandum of Understanding**

### **Imperial County and the Sea to Sea Restoration and Desalination Company (StS)**

**December 30, 2010**

#### **Parties.**

Imperial County, California (hereinafter referred to as "IC").

Sea to Sea Restoration and Desalination Company (hereinafter referred to as "StS").

#### **Introduction.**

StS proposes a public private partnership with IC to research and develop a hybrid plan to contribute to the long-term restoration of the Salton Sea and generate economic development in Imperial County. Said proposal is more specifically outlined in the attached C2C Executive Summary.

The plan will review several concepts related to dust mitigation, brackish ground water recycling, mitigation bank formation and general concepts related to environmental restoration throughout Imperial County. The intent of this Memorandum of Understanding is to outline a cooperative relationship between the Parties to develop a long term business relationship. The Parties also agree that the plan which is the subject of this Memorandum of Understanding is not intended to be considered a "project" as that term is defined in California Public Resources Code section 21065.

#### **Sea to Sea Restoration and Desalination Company LLC.**

Gary Jennings of Utility Solutions Group (USG) and Dan Johnson of DesalNATE Inc. have assembled an international development team of experienced water and energy professionals to develop the proposed "Sea to Sea Restoration & Desalination Project." As the project evolves, new team members may be included to manage their respective areas of expertise.

Fifteen senior consultants, some of which are listed below, and select Imperial County staff will be responsible for the primary management related to pilot studies, project studies, performance studies, engineering studies, legal review, water quality, environmental, project permitting, real-estate, project marketing, project water sales, project funding, and interface with State & Federal agencies.

#### **CONSULTANTS**

##### **DesalNATE Inc.**

Primary manager of R.O. desalination O&M, equipment manufacturing, site engineering and senior advisor – partner to the project

**Doosan Heavy Industry**

General engineering and program management

**Parsons Brinkerhoff Quade & Douglas**

General engineering and program management

**Mexican Sea Water Export Concession Group**

All aspects of importing sea water from Baja Mexico

**Sephton Technology.**

General Water Consulting

**Brackish Ground Water Pilot Partnerships**

Six to eight pilot partnerships in Imperial County

**Dr. Timothy Krantz, Environmental Consulting**

General Environmental project management

**TMG Communications**

General marketing and program management

**Key Points.**

1. StS maintains that the concepts being proposed in the Executive Summary, pilots are the exclusive property of StS and to be developed jointly in Imperial County. During the pilot process, a uniform fee agreement, royalty structure and tax payments shall be developed.
2. The intent of IC includes but is not limited to the following: coordination of actions relating to improvement of water quality; stabilization of water elevation; enhancement of recreational and economic development potential of the Salton Sea; and other beneficial uses, recognizing the importance of the role of the Salton Sea for the continuation of the dynamic agricultural economy in Imperial and Riverside Counties.
3. The Parties agree that the intent of this MOU is to serve as a guide toward evaluation of concept feasibility, and, in the sole discretion of each party, to a more definitive business agreement. The Parties agree to meet monthly, to the extent their resources permit, and in their absolute discretion to attempt to identify and resolve the issues of restoration engineering, environmental study, technical, legal, pilots, business development and environmental aspects of the proposed concepts. The Parties agree to present progress updates to IC at public meetings to keep all interested parties informed.
4. The Parties agree to review the CPUC rate of return or rate of margin financial structure to determine whether it is a reasonable framework for the proposed public-private partnership.

5. The Parties agree to review the draft financial structure discussed by StS specific to importing raw sea water from Mexico, payment structure, ownership structure and to determine whether it is a reasonable framework for the proposed bi national public-private partnership.
6. The Parties agree to explore and if acceptable, file the necessary paperwork to obtain grants, Fish & Game funding, and QSA funding to further evaluate the proposed project.
7. The Parties to this Memorandum of Understanding recognize that the proposed concepts would be funded by a combination of private and public investment that may include specific public - private asset ownership and operational responsibilities. The preliminary operational structure, investment requirements, income forecast and funding structure will be clarified during the evaluation process.
8. The Parties agree to research alternative restoration funding methods including utility bill surcharges, private activity bonds, Department of Energy loan programs, WAPA programs and NAFTA programs.
9. The Parties agree to research alternative methods to assist in the restoration of the New River as the Sea to Sea project is researched and developed.
10. The Parties agree to work together to further evaluate the proposed project as outlined in this Memorandum of Understanding. The first concept to be evaluated is the brackish ground water pilots in conjunction with IC's Planning and Development Services Department.
11. The Parties agree that this MOU is non-binding in all respects and that a definitive project has not been identified. The Parties recognize that when and if a definitive project is clearly identified and agreed to by the Parties that full compliance with CEQA will be initiated and followed at that time.
12. The Parties agree that this MOU can be terminated at any time, with or without cause, by notifying the other Party in writing at the address set forth in paragraph 15 of this MOU.
13. The Parties agree that this MOU does not commit IC to the approval of any project ultimately identified for purposes of CEQA, nor does it exempt StS from any of IC's project requirements (e.g., obtaining permits, conducting environmental studies, etc.).
14. The Parties agree that StS will be responsible for reimbursing IC for the reasonable expenses associated with any time IC staff spends working pursuant to this MOU, and that IC will submit all requests for reimbursement to StS at the address set forth in paragraph 15 of this MOU. The parties agree to develop a preliminary budget for anticipated expenses.

15. Notices and requests for reimbursement shall be in writing and may be given by personal delivery or by mailing by certified mail, addressed as follows:

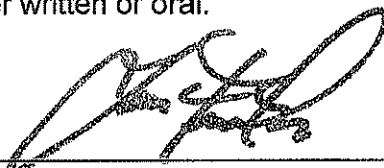
**IC**

Imperial County Executive Office  
Attn: County Executive Officer  
940 West Main Street, Suite 208  
El Centro, CA 92243

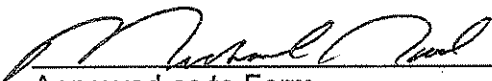
**StS**

Sea to Sea Restoration and Desalination  
Company, LLC  
21550 Oxnard Street, Suite 900  
Woodland Hills, CA 91367


This MOU contains the entire agreement between IC and StS relating to the transactions contemplated hereby and supersedes all prior or contemporaneous agreements, understandings, provisions, negotiations, representations, or statements, either written or oral.

  
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Louis A. Fuentes, Chairman  
Imperial County Board of Supervisors

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Date

  
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Approved as to Form  
Michael L. Rood  
County Counsel  
County of Imperial

1-14-11  
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Date

  
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Gary Jennings  
President, Utility Solution Group  
Director of Business Development,  
Sea to Sea Restoration and Desalination Company  
[www.gjennings.com](http://www.gjennings.com)

1-17-11  
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Date

  
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Dan Johnson  
President, DesalNate, Inc  
President, Sea to Sea Restoration and Desalination Company

1/19/11  
\_\_\_\_\_  
Date

Sea To Sea Restoration & Desalination Group, LLC  
21550 Oxnard St. Suite 900, Woodland Hills, CA 91367